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In re Application of  
RADKOV et al.  
Serial No.: 10/580,973  
PCT App. No.: PCT/US04/20086  
Int'l Filing Date: 23 June 2004  
Priority Date: 24 June 2003  
Attorney Docket No.: GLOZ 2 00167  
For: FULL SPECTRUM PHOSPHOR BLENDS  
FOR WHITE LIGHT GENERATION WITH LED  
CHIPS

DECISION ON  
PETITION UNDER  
37 CFR 1.137(b)

This is a decision on applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed on 31 May 2006 in the United States Patent and Trademark Office (USPTO).

#### BACKGROUND

On 23 June 2004, applicant filed international application PCT/US04/20086 in the United States Receiving Office (RO/US), which claimed priority of an earlier U.S. application filed 24 June 2003. The deadline for entry into national stage expired thirty months after the priority date or by midnight on 27 December 2005 (24 December was a Saturday, 25 December a Sunday and 26 December a federal holiday). Thereafter, the application was abandoned for failure to enter national stage in the U.S. before the expiration of the thirty month period.

On 31 May 2006, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee and the instant petition to revive.

#### DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

With respect to Items (2) and (3), applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3). The required petition fee of \$1500 has also been paid.

With regard to Item (1), a review of the finance records reveal that the proper reply has been provided with the payment of the basic national fee.

It is noted that the declaration submitted on 31 May 2006 identifies each inventor and states the citizenship, residency and mailing address of each of the inventors. However, the declaration contained two identical sheets of page 3 signed by different inventors. The declaration is not properly executed. It appears that either the attorney pieced together two separate complete declarations or the inventors were presented with an incomplete declaration. Thus, the requirements of 37 CFR 1.497 have not been met. What is required is one declaration where all inventors have signed or two separate complete declarations executed in compliance with 37 CFR §1.497(a) &(b).

### CONCLUSION

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 31 May 2006 in the above-captioned application is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the \$130 surcharge fee for filing the oath or declaration after the thirty month period, is required.



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